

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

**P.R., a minor, who sues by
and through her mother and next friend,
TATUM RUUD; TATUM RUUD, as an
individual,**

Plaintiffs,

vs.

**SEARS, ROEBUCK & CO., a corporation;
ICON HEALTH & FITNESS, INC., et al.**

Defendant.

**CIVIL ACTION NO.:
2:05cv640-F**

**DEFENDANTS SEARS, ROEBUCK & CO.'S AND
ICON HEALTH & FITNESS, INC.'S MOTION FOR
EXTENSION OF TIME TO FILE RULE 26(f) REPORT**

COME NOW Defendants Sears, Roebuck & Co. and ICON Health & Fitness, Inc. (hereinafter "Defendants") and hereby move this Honorable Court to extend the deadline for filing the F.R.C.P. 26(f) report due to the disruption caused by Hurricane Katrina in Mobile, Alabama. As grounds for said motion, Defendants state as follows, to-wit:

1. The parties planned to have their planning meeting in order to prepare the Rule 26(f) report on Monday, August 29, 2005. (Please see confirmation of scheduled conference attached hereto as Exhibit A).
2. Hurricane Katrina hit the Gulf Coast, including Mobile, on the same day. As a result of Hurricane Katrina, defense counsel's law office was closed and electricity was out in Mobile.
3. George Zoghby, Esquire, of defense counsel's firm attempted to contact Plaintiff's counsel from his home in order to have the planning meeting; however, the telephone lines were down and, therefore, the call could not be made.

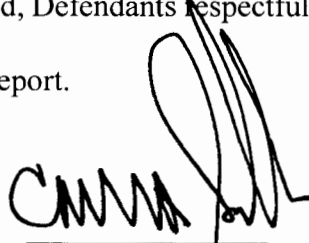
4. Electricity to downtown Mobile, where defense counsel's law firm is located, was not restored until the evening of August 31. September 1 was the first day the office reopened.

5. On the morning of September 1, 2005, defense counsel again tried to make a long distance call to Plaintiff's counsel; however, long distance calls could not be made, nor can long distance calls be made currently.

6. As a result of the long distance calls not getting through to Plaintiff's counsel, e-mail correspondence was sent to him on September 1 advising of same and requesting Plaintiff's counsel call defense counsel should he get the e-mail. (A copy of said e-mail correspondence is attached hereto as Exhibit B).

7. Because the parties have been unable to meet by telephone or in person in order to prepare the Rule 26(f) report, Defendants respectfully request this Honorable Court to grant an extension of time to allow the parties to have their planning meeting and prepare their report.

WHEREFORE, premises considered, Defendants respectfully request an extension of time in order to prepare and file the Rule 26(f) report.

A handwritten signature in black ink, appearing to read 'Carroll H. Sullivan', written over a horizontal line.

CARROLL H. SULLIVAN (SULL8646)
Attorney for ICON Health & Fitness, Inc.
and Sears, Roebuck, & Co.

OF COUNSEL:

SCOTT, SULLIVAN, STREETMAN & FOX, P.C.
Post Office Box 1034
Mobile, Alabama 36633
Telephone: (251) 433-1346
Facsimile: (251) 433-1086

CERTIFICATE OF SERVICE

I do hereby certify that on the 28 day of September, 2005, I have electronically filed the foregoing pleading with the Clerk of Court using the CM/ECF System which will send notification of such filing to the following counsel:

David E. Allred, Esquire
David E. Allred, P.C.
Post Office Box 241594
Montgomery, Alabama 36124-1594

A handwritten signature in black ink, appearing to read 'D. Allred', is written over a horizontal line.

OF COUNSEL

Subj: **Re: Peyton Ruud v. Sears/Icon**
Date: 8/26/2005 11:27:17 AM Central Daylight Time
From: CarrllSull
To: DAllred@allredpclaw.com
CC: CAllred@allredpclaw.com, gzoghby@scottsullivanlaw.com, cgeorge@scottsullivanlaw.com

David: George Zoghby of our firm will handle conference call with you on Monday. Please let Goerge know when Monday this conference can be conducted. Thanx.

Carroll Sullivan
csullivan@scottsullivanlaw.com

In a message dated 8/25/2005 2:30:22 PM Central Daylight Time, DAllred@allredpclaw.com writes:

In accord with Judge Fuller's order, this will serve to schedule a conference for the purpose of developing a discovery plan so that a Rule 26(f) report can be filed by 8-31-05. I am available this afternoon, 8-26, or 8-29 for a conference call. If you will let me know if any of these proposed times are good for you, we can get the conference call scheduled.

Thanks, David

David E. Allred

DAVID E. ALLRED, P.C.

1774 Taliaferro Trail (36117)

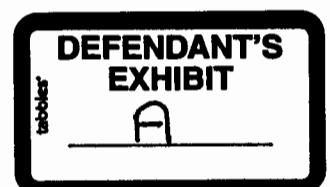
P.O. Box 241594

Montgomery, Alabama 36124 - 1594

Telephone: 334 - 396 - 9200

Facsimile: 334 - 396 - 9977

dallred@allredpclaw.com



Web Hosting Web Mail

From: George Zoghby <gzoghby@scottssullivanlaw.com>
To: <dallred@allredpclaw.com>
Cc: <csullivan@scottssullivanlaw.com>

Subject: Ruud v Icon et al

Date: Thu, 01 Sep 2005 11:34:29 -0400 (EDT)

Dear David, due to the hurricane I was unable to have the telephone conference with you on Monday. I tried this morning to call you but cannot get a long distance call to go through. Please call me when you get this message to discuss the conference 251-433-1346.

Thank you,
George Zoghby

George M. Zoghby, Esquire
SCOTT, SULLIVAN, STREETMAN & FOX, P.C.
Regions Bank Building, 10th Floor
56 Saint Joseph Street
Mobile, Alabama 36602
Telephone: 251-433-1346
Facsimile: 251-433-1086
Email: gzoghby@scottssullivanlaw.com

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